

AMENDED IN ASSEMBLY JANUARY 6, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 504**

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**Introduced by Assembly Member Chesbro**

February 20, 2013

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An act to amend Sections 206 and 207 Section 8405.4 of, and to add Sections 7652.4 and 7652.5 to, the Fish and Game Code, relating to the Fish and Game Commission: *commercial fishing*.

LEGISLATIVE COUNSEL'S DIGEST

AB 504, as amended, Chesbro. ~~Fish and Game Commission: salmon and groundfish.~~ *Commercial fishing: sea cucumbers.*

*Existing law governs the sea cucumber fishery in this state. Under existing law, sea cucumbers cannot be taken, possessed aboard a boat, or landed by a person for commercial purposes except under a valid sea cucumber permit issued by the Department of Fish and Wildlife. The Fish and Game Commission is authorized to adopt regulations that it determines may reasonably be necessary to protect the sea cucumber resource and assure a sustainable sea cucumber fishery or to enhance enforcement activities. A violation of existing law or regulations adopted pursuant to those provisions is a crime. Existing law provides that those provisions shall become inoperative on April 1, 2015, and, as of January 1, 2016, are repealed.*

*This bill would extend the operation of those provisions until April 1, 2017, and would repeal those provisions on January 1, 2018. Because this bill would extend the operation of the sea cucumber permit program and thereby the crimes imposed for a violation of those provisions, the bill would create a state-mandated local program by creating new crimes.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

~~(1) The California Constitution creates the Fish and Game Commission. Existing law establishes the commission in the Natural Resources Agency to perform specified functions. Existing law requires the commission to hold no fewer than 10 regular meetings per year, if the commission has adequate funding for related travel, including funding for department travel, with no more than 3 regular meetings to be held in Sacramento per year. Existing law requires the commission to cause the notice of the schedule for regular meetings, and notice of any change in the date and location of a meeting, to be disseminated to the public in a manner that will result in broad dissemination, including, but not limited to, electronic distribution, mailings to interested parties, and publication in local newspapers of the affected communities.~~

~~This bill would reduce the number of regular meetings per year to 8 and would delete the limitation that no more than 3 regular meetings be held in Sacramento per year. The bill would delete the requirement that the broad dissemination of the notices regarding meetings be achieved in a specific manner.~~

~~(2) Existing law requires the commission, except for emergency regulations, to consider and adopt regulations at a series of no fewer than 3 meetings and requires that these meetings whether regular or special meetings to be duly noticed to the public in accordance with specified provisions of state law. Existing law provides that at the 3rd meeting the commission may choose to hear additional public discussion regarding the regulations it intends to adopt and requires that either at that meeting or within 20 days after that meeting, the commission add, amend, or repeal regulations relating to any recommendation received at the initial meeting it deems necessary to preserve, properly utilize, and maintain each species or subspecies.~~

~~This bill would delete the 20-day period after the 3rd meeting during which the commission would have been authorized to add, amend, or repeal regulations.~~

~~(3) Existing law authorizes the commission to annually adopt regulations, as specified, pertaining to migratory birds to conform with or to further restrict the rules and regulations prescribed pursuant to the~~

~~Migratory Bird Treaty Act. Existing law provides that migratory game birds may be taken in conformity with federal laws and regulations and the regulations of the commission, as specified, and, if no regulations are prescribed by the proper federal agency, authorizes the commission to determine and fix the area or areas, the seasons and hours, the species, the bag and possession limits, and the total number that may be taken during any open season for the taking of migratory game birds, under such rules and regulations as the commission may prescribe.~~

~~This bill would add similar provisions that would authorize the commission to annually adopt regulations, as specified, pertaining to salmon and groundfish to conform with or to further restrict the rules and regulations prescribed pursuant to the federal Magnuson-Stevens Fishery Conservation and Management Act and the Pacific Fishery Management Council established pursuant to that act or its successor agency. The bill would also add similar provisions that authorize the commission to determine and fix the area or areas, the seasons and hours, the species, the bag and possession limits, and the total number that may be taken during any open season for the taking of salmon and groundfish, as specified, if no regulations are prescribed by the proper federal agency.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 8405.4 of the Fish and Game Code is*  
2     *amended to read:*  
3     8405.4. This article shall become inoperative on April 1, ~~2015,~~  
4     2017 and as of January 1, ~~2016, 2018~~ is repealed, unless a later  
5     enacted statute that is enacted before January 1, ~~2016, 2018~~, deletes  
6     or extends the dates on which it becomes inoperative and is  
7     repealed.  
8     *SEC. 2. No reimbursement is required by this act pursuant to*  
9     *Section 6 of Article XIII B of the California Constitution because*  
10    *the only costs that may be incurred by a local agency or school*  
11    *district will be incurred because this act creates a new crime or*  
12    *infraction, eliminates a crime or infraction, or changes the penalty*  
13    *for a crime or infraction, within the meaning of Section 17556 of*  
14    *the Government Code, or changes the definition of a crime within*

1 *the meaning of Section 6 of Article XIII B of the California*  
2 *Constitution.*

3 ~~SECTION 1. Section 206 of the Fish and Game Code is~~  
4 ~~amended to read:~~

5 206. (a) ~~The commission shall hold no fewer than eight regular~~  
6 ~~meetings per calendar year, if the commission has adequate funding~~  
7 ~~for related travel, including funding for department travel. The~~  
8 ~~commission may also hold special meetings or hearings to receive~~  
9 ~~additional input from the department and the public.~~

10 (b) ~~The commission shall announce the dates and locations of~~  
11 ~~meetings for the year by January 1 of that year, or 60 days prior~~  
12 ~~to the first meeting, whichever comes first. Meeting locations shall~~  
13 ~~be accessible to the public and located throughout the state. To the~~  
14 ~~extent feasible, meetings shall be held in state facilities. In setting~~  
15 ~~the dates and locations for regular meetings, the commission shall~~  
16 ~~also consider the following factors:~~

17 (1) ~~Recommendations of the department.~~

18 (2) ~~Opening and closing dates of fishing and hunting seasons.~~

19 (3) ~~The schedules of other state and federal regulatory agencies~~  
20 ~~whose regulations affect the management of fish and wildlife of~~  
21 ~~this state.~~

22 (e) ~~The commission shall cause the notice of the schedule for~~  
23 ~~regular meetings, and notice of any change in the date and location~~  
24 ~~of a meeting, to be disseminated to the public in a manner that will~~  
25 ~~result in broad dissemination.~~

26 ~~SEC. 2. Section 207 of the Fish and Game Code is amended~~  
27 ~~to read:~~

28 207. (a) ~~Except for emergency regulations, the commission~~  
29 ~~shall consider and adopt regulations pursuant to Sections 203 and~~  
30 ~~205 at a series of no fewer than three meetings. These meetings~~  
31 ~~may be regular or special meetings that are duly noticed to the~~  
32 ~~public in accordance with subdivision (e) of Section 206 and the~~  
33 ~~Administrative Procedure Act (Chapter 3.5 (commencing with~~  
34 ~~Section 11340) of Part 1 of Division 3 of Title 2 of the Government~~  
35 ~~Code).~~

36 (b) ~~At the first meeting, the commission shall receive~~  
37 ~~recommendations for regulations from its own members and staff,~~  
38 ~~the department, other public agencies, and the public.~~

39 (e) ~~At the second meeting, the commission shall devote time~~  
40 ~~for open public discussion of proposed regulations presented at~~

1 the first meeting. The department shall participate in this discussion  
2 by reviewing and presenting its findings regarding each regulation  
3 proposed by the public and by responding to objections raised  
4 pertaining to its proposed regulations. After considering the public  
5 discussion, the commission shall announce, prior to adjournment  
6 of the meeting, the regulations it intends to add, amend, or repeal.

7 (d) ~~At the third meeting, the commission may choose to hear~~  
8 ~~additional public discussion regarding the regulations it intends to~~  
9 ~~adopt. At the meeting, the commission shall add, amend, or repeal~~  
10 ~~regulations relating to any recommendation received at the initial~~  
11 ~~meeting it deems necessary to preserve, properly utilize, and~~  
12 ~~maintain each species or subspecies.~~

13 (e) ~~Within 45 days after adoption, the department shall publish~~  
14 ~~and distribute regulations adopted pursuant to this section.~~

15 SEC. 3. ~~Section 7652.4 is added to the Fish and Game Code,~~  
16 ~~to read:~~

17 7652.4. (a) ~~The commission may, annually, adopt regulations~~  
18 ~~pertaining to salmon and groundfish to conform with or to further~~  
19 ~~restrict the rules and regulations prescribed pursuant to the federal~~  
20 ~~Magnuson-Stevens Fishery Conservation and Management Act~~  
21 ~~(16 U.S.C. Sec. 1801) and the Pacific Fishery Management Council~~  
22 ~~established pursuant to that act or its successor agency.~~

23 (b) ~~Regulations adopted under this section are not subject to~~  
24 ~~Sections 11343.4, 11346.1, 11346.4, and 11346.8 of the~~  
25 ~~Government Code.~~

26 (c) ~~Any regulation of the commission adopted pursuant to this~~  
27 ~~section shall be filed with the Secretary of State, and shall become~~  
28 ~~effective upon filing unless otherwise specified in the regulations.~~

29 SEC. 4. ~~Section 7652.5 is added to the Fish and Game Code,~~  
30 ~~to read:~~

31 7652.5. (a) ~~Salmon and groundfish may be taken in conformity~~  
32 ~~with the federal laws and regulations and the regulations of the~~  
33 ~~commission as provided in Section 7652.4.~~

34 (b) ~~In the event no regulations are prescribed by the proper~~  
35 ~~federal agency, the commission may determine and fix the area or~~  
36 ~~areas, the seasons and hours, the species, the bag and possession~~  
37 ~~limits, and the total number that may be taken during any open~~  
38 ~~season for the taking of salmon and groundfish, under rules and~~  
39 ~~regulations as the commission may prescribe. The rules and~~

- 1 ~~regulations adopted by the commission pursuant to this section~~
- 2 ~~shall have the same effect as if enacted by the Legislature.~~

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